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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/407,855	09/29/1999	SHIGERU WAKASHIRO	P17997	3303

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EXAMINER

NGUYEN, SANG H

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/407,855

Applicant(s)

WAKASHIRO ET AL.

Examiner

Sang H Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 7-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restriction

1. Applicant's election with traverse with Group I (claims 1-6) of filed on 03/26/03 in Paper No. 8 is acknowledged. The traversal is on the ground(s) that a target for photogrammetric analytic measurement, a first and second "straight line" interconnecting the three standard points, and a first and a second bar on which three standard points are located. This is not found persuasive because applicant argues on the preamble of independent claims 1 and 7, while details of the body claim 1 recites different way to do the details of the body claim 7, for example, claim 1 recites that a target for photogrammetric analytic measurement having identifying and analyzing first standard point, second standard point, third standard point, assistance point members on the first straight line and second straight line. Further, the details of claim 7 recites different way to do another structure with details of claim 1, for example, claim 7 recites non-reflecting member is a circular plate and a circular opening that are respectively attachable to and removable from the at least three standard points lying on one plane and a reflecting sheet is attached on a surface of the circular plate portion, because the details of claim 7 have nothing to do with identifying and analyzing first standard point, second standard point, third standard point, assistance point members on the first straight line and second straight line. The inventions are distinct from each other, the restriction is based on the preamble and body claims, the argument is clearly unpersuasive because it ignores the standards of MPEP section

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803 that defines what shows a serious burden of search and examination. Thus, the examiner has satisfied the requirement of MPEP section 808.02 on basis of different search, separate classification, and examination (see previous restriction).

The requirement is still deemed proper and is therefore made FINAL.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

3. This office acknowledges of the following items from the Applicant: Information Disclosure Statement (IDS) file on 12/29/99 is received and made of record as Paper # 5. The references cited on the PTOL 1449 form have been considered.

Drawings

4. New formal drawings are required in this application because the drawings file on 09/29/99 are objected by the draftsman as indicated on attached PTO-948. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply

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to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko et al (U.S. Patent No. 5,995,765) in view of Kaneko et al (U.S. Patent No. 6,304,669).

Regarding claims 1 and 4; Kaneko et al ('765) discloses a target of a object for photogrammetric analytic measurement by a camera; comprising:

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* the target (SC of figure 9) having three standard points (P1,P2,P3 of figure 9) that are clearly discerned in a photographed picture (M1 at CA and M2 at CA of figure 9);

* a first standard point member (figures 10-11) defining a first standard point (P1 of figure 9) of the three standard points (P1,P2,P3 of figure 9);

* a second standard point member (figures 10-11) defining a second standard point (P2 of figure 9) of the three standard points (P1, P2,P3 of figure 3);

* a third standard point member (figures 10-11) defining a third standard point (P3 of figure 9) of the three standard points (P1, P2,P3 of figure 3);

wherein distances (figure 9) are predetermined between each of the first standard point (P1 of figure 9) and the second standard point (P2 of figure 9) and the third standard point (P3 of figure 9); and

* a first straight line (figure 9) for connecting the first standard point (P1 of figure 9) and the second standard point (P2 of figure 9), and a second straight line (figure 9) for connecting the second standard point (P2 of figure 9) and the third standard point (P3 of figure 9) are inclined at a predetermined angle (col.9 lines 7-30). See figures 1-18.

Kaneko et al ('765) teaches all of features in claimed invention except for assistant point members respectively defining at least one of the assistant points are positioned on the first straight line and the second straight line that are clearly discerned in the photographed picture. However, Kaneko et al ('669) shows that it is known in the art to provide assistant point members (figures 11-12) respectively defining at least one of the assistant points (P10, P11, P12,

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P13 of figure 11) are positioned on the first straight line (figure 11 from P4 to P5) and the second straight line (figure 11 from P5 to P6) that are clearly discerned in the photographed picture. See figures 1-12.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a target of a object for photogrammetric analytic measurement by a camera of Kaneko et al ('765) with assistant point members respectively defying at least one of the assistant points are positioned on the first straight line and the second straight line that are clearly discerned in the photographed picture as shown in the device of Kaneko et al ('669) for the purpose of measuring and surveying map is produced on the basis of a set of photographed pictures obtained at two different photographed positions.

Regarding claim 2; Kaneko et al ('765) discloses a distance between the first standard point and the second point equal to a distance between the second point and the third point. See figures 9-12.

Regarding claim 3; Kaneko et al ('765) discloses all of features in claimed invention except for the predetermined angle is a right angle. However, Kaneko et al teaches that it is known in the art to provide the predetermined angle is a right angle (figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a target of object for photogrammetric analytic measurement by a camera of Kaneko et al ('765) with the predetermined angle is a right angle as shown in the device of Kaneko et al ('669) for the purpose of measuring shape of an equilateral triangle point members.

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Regarding claims 5-6; Kaneko et al ('765) discloses all of features in claimed invention except for a number of the assistant points on the first straight line is different from a number of assistant point on the second straight line, and the number of the assistant points on the first straight line is two, and the number of assistant points on the second straight line is one.

However, Kaneko et al teaches that it is known in the art to provide a number of the assistant points on the first straight line is different from a number of assistant point on the second straight line, and the number of the assistant points on the first straight line is two, and the number of assistant points on the second straight line is one. However, Kaneko et al teaches that it is known in the art to provide (see figure 11). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a target of object for photogrammetric analytic measurement by a camera of Kaneko et al ('765) with the predetermined angle is a right angle as shown in the device of Kaneko et al ('669) for the purpose of measuring different point on the shape of an equilateral triangle point members.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nakayama et al (6,108,497) discloses standard measurement scale and markers for defining standard measurement scale; Cannon (5,732,474) discloses visual aid manipulative for demonstrating geometric and trigometric functions; Manthey et al (5,642,293) discloses method and apparatus for determining surface profile and surface strain; Heibrun et al (5,603,318)

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discloses apparatus and method for photogrammetric surgical localization; Von Braun (5,555,018) discloses large scale mapping of parameters of multi-dimensional structures; or Pryor (5,148,591) discloses vision target based assembly .

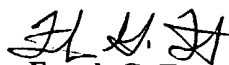
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Frank Font, can be reached on (703)308-4881. The fax phone number for the organization where this application or proceeding is assigned is (703)308-7722 or 7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

SN

Nguyen/ sn

April 16, 2003


Frank G. Font
Supervisory Patent Examiner
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